IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRITS No. 1458 of 2004

KISHANLAL && ANR
V/S
RATANLAL & ORS

Mr. GR GOYAL, for the appellant / petitioner

Mr. SL JAIN, for the respondent

Date of Order : 4.10.2004

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the parties.

The matter comes up on an application filed for early hearing. Perusal of order-sheets shows that writ petition has not been admitted so far. Looking to the urgency of the matter, and at the request of learned counsel for the parties, the matter was heard today for admission itself.

By the impugned order, the learned trial court has made provisional determination of rent under Sec. 13(3) of the Rajasthan Premises (Control of Rent and Eviction) Act, 1950 and determined the monthly rent to be Rs. 800/-. The controversy raised by the petitioner is that, monthly rent of the premises should be only Rs. 200/- PM, while the learned trial court has determined the monthly rent as Rs. 800/- PM. Admittedly, there is no written rent note, and no rent receipt has been produced. The learned counsel for the petitioner informs that the parties are close relatives, being brother-in-law,and therefore, there is no documentary proof in writing.

Perusal of impugned order shows, that statements of parties were

recorded under O.10 R.1 CPC, and learned trial court, looking to the conflicting version of both the parties, has perused the rent note of other premises, so also the documents about payment of house tax etc., and has concluded, that at this stage, monthly rent of premises is taken to be Rs. 800/-, with the clarification that if during trial, other evidence is produced by the defendant, that will be taken into consideration. With this finding of provisional, determination is made, and has been affirmed by learned Lower Appellate Court.

I do not find any sufficient ground to interfere with the finding of learned trial court, more particularly in view of fact ,that determination is provisional, and the learned trial court itself has observed that, if further evidence comes during trial, that will be taken into account.

In that view of the matter, writ petition has no force, and is hereby dismissed summarily.

(N P GUPTA),J.

/Srawat/